

a predictive model for selecting actual display characteristics in accordance with one of said plurality of electronic user profiles and said merchant data from said plurality of merchants in said database; and  
a computer display comprising said actual display characteristics.

### **REMARKS**

Claims 1-20 are pending in the present application. Applicant has amended claims 1, 5, 6, 10, 11, 15, and 16 to more clearly define the present invention.

#### **Finality of Office Action**

The Examiner has issued a final office action in the present case. It is the Examiner's position that Applicant's prior amendment necessitated the new ground of rejection. Applicant respectfully disagrees and requests that the Examiner withdraw the finality of the office action and reconsider the present application. Applicant respectfully submits that it has not been afforded an adequate opportunity to address the merits of the claim rejections raised in the present office action.

It is the Examiner's position that Applicant's amendment in response to the prior office action necessitated the new ground of rejection. Previously, the Examiner rejected claims 1, 3, 5, 6-10, 16, and 18-20 under 25 U.S.C. § 103(a) as being unpatentable over LeMole (U.S. Pat. 6,009,410 filed October 16, 1997) and claims 2, 11-15, and 17 under 35 U.S.C. § 103(a) as being unpatentable over LeMole in view of Dedrick (U.S. Pat. 5,719,884). In response to the claim rejections, Applicant did not

amend the claims. Instead, Applicant submitted a substitute specification to claim priority of U.S. Patent Application Serial No. 08/654,529 filed on May 29, 1996, now U.S. Patent 6,014,638 issued on January 11, 2000. Applicant's claim of priority predated the filing date of the LeMole reference by more than one year and therefore, removed the LeMole reference as prior art. As a result, the LeMole reference, either alone or in combination with the Dedrick reference, could not support the rejections.

Applicant respectfully submits that the Examiner was aware that Applicant intended to claim priority of a prior filed application. Applicant's transmittal indicated that the present application was a continuation of U.S. Patent Application Serial No. 08/654,529. Specifically, the Examiner noted that Applicant admitted in the declaration and power of attorney that the present application was filed in a prior application and that Applicant had inadvertently failed to claim priority in the specification. Although the Examiner was aware that Applicant was entitled to claim priority of an early application and intended to claim priority of an earlier application, the Examiner chose to rely on a reference (the LeMole reference) with an effective date that postdated Applicant's priority claim. As a result, the reference was properly removed with Applicant's submission of a substitute specification claiming priority of the earlier filed application.

In the present office action, the LeMole reference has been removed and the Examiner has presented new claim rejections based exclusively on the Dedrick reference that was cited in the first office action. Because the Examiner is relying on only one reference for the present claim rejections, the Examiner's basis for rejecting the claims is different than it was in the first office action. Applicant respectfully submits that the new grounds for rejection were not necessitated by Applicant's amendment,

that the finality of present office action should be withdrawn, and that Applicant should be provided with an opportunity to respond to the Examiner's new basis for rejecting the claims.

#### **Claim Rejections Under 35 U.S.C. § 103(a)**

The Examiner has rejected claims 1-20 under 35 U.S.C. § 103(a) as being unpatentable over Dedrick (U.S. Pat. 5,719,884). Applicant has amended claims 1, 5, 6, 10, 11, 15, and 16 to indicate that displays in accordance with the present invention comprise content or merchant data from a plurality of content providers or merchants. In view of Applicant's amended claims, Applicant respectfully traverses the rejections. Dedrick discloses a method and apparatus for providing electronic advertisements to end-users. Each product or service that may be of interest to a consumer is presented in a separate display or window independently of content (e.g., products or services) for related products or services from other vendors or merchants. Each advertisement in Dedrick is presented and tracked separately so a merchant or vendor associated with the advertisement may be charged a fee for presentation of the advertisement. Dedrick does not teach or even suggest that a single display or window may comprise content from a plurality of content providers or merchants.

Applicant has amended claims 1, 5, 6, 10, 11, 15, and 16 to indicate that content or merchant data is obtained from a plurality of content providers or merchants. In Applicant's invention, content data (e.g., products or services) from different content providers or merchants appear in one display or window. Using Applicant's invention, consumers may comparison shop by searching for items based on categories or topics

and view related items in accordance with display characteristics that conform to their preferences. Applicant respectfully submits that Dedrick teaches away from placing content from multiple content providers in one display or window because Dedrick supports charging an advertiser for each match that is made in the disclosed matching process. A practice of placing content from multiple content providers in one display or window would make it difficult, if not impossible, to determine which advertiser should be charged and what fee should be charged.

In view of the foregoing amendments and remarks, Applicant respectfully submits that the present application is now in condition for allowance and respectfully requests such action.

Respectfully submitted,

Date: September 26, 2002 By: Carol G. Stovsky  
Carol G. Stovsky  
Reg. No. 42,171  
Attorney for Applicants  
Standley & Gilcrest LLP  
495 Metro Place South, Suite 210  
Dublin, Ohio 43017  
614-792-5555

VERSION WITH MARKINGS TO SHOW CHANGES MADE

The claims have been amended as follows.

1. A system for customizing displays, comprising:
  - electronic user profile data comprising on-line behavior data and personal data;
  - content data ~~for~~ from a plurality of content providers;
  - a plurality of model parameters identifying display characteristics for a computer display;
  - a plurality of actual display characteristics selected in accordance with said electronic user profile data, said content data from said plurality of content providers, and said plurality of model parameters; and
  - a display comprising said actual display characteristics.
5. The system of claim 1 wherein said content data comprises data for products and services from each of said plurality of content providers.
6. A method for customizing displays in accordance with user preferences comprising the steps of:
  - f) creating electronic profile data for a computer user;
  - g) defining general display characteristics for a computer display;
  - h) applying a predictive model to said electronic profile data to select actual display characteristics in accordance with said general display characteristics;
  - i) selecting content provider data from a plurality of content providers; and
  - j) displaying said content provider data from said plurality of content providers in accordance with said actual display characteristics.

10. The method of claim 6 wherein the step of selecting content provider data comprises the step of selecting products and services from each of said plurality of content providers.
11. A method for online product marketing comprising the steps of:
- e) defining electronic profile data for a computer user;
  - f) defining account data for a plurality of merchants;
  - g) defining model parameters for a computer display; and
  - h) combining said electronic profile data and said ~~merchant~~ account data defined for said plurality of merchants to create a customized computer display in accordance with said model parameters.
15. The method of claim 11 wherein the step of combining said electronic profile data and said ~~merchant~~ account data to create a customized computer display in accordance with said model parameters comprises the steps of:
- selecting a number of options, option locations, option shapes, option sizes, background, foreground, colors, borders, and fonts based on said electronic profile data; and
  - displaying selected ~~merchant~~ account data in accordance with the selected number of options, option locations, option shapes, option sizes, background, foreground, colors, borders, and fonts.
16. An electronic marketing system comprising:
- a plurality of electronic user profiles;
  - a database for storing merchant data for a plurality of merchants;
  - variable display characteristics for defining the layout of a computer display;

a predictive model for selecting actual display characteristics in accordance with one of said plurality of electronic user profiles and said merchant data from said plurality of merchants in said database; and

a computer display comprising said actual display characteristics.